

2008 LWCF/LPRF/NRTF Application

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Legislative Authorization

Land & Water Conservation Fund (L&WCF)

The **Land & Water Conservation Fund (L&WCF)** Act of 1965 (Public Law 88-578, 78 Stat 897) was enacted "...to assist in preserving, developing and assuring accessibility to all citizens of the United States of America of present and future generations...such quality and quantity of outdoor recreation resources as may be available and are necessary and desirable for individual active participation..." The L&WCF program provides matching grants to states and through the state to local governments and state agencies that provide recreation and parks, for the acquisition and development of public outdoor recreation areas and facilities. TDEC's Recreation Educational Services Division (RES) will administer the L&WCF grants.

Local Parks and Recreation Fund (LPRF)

The Tennessee Department of Environment and Conservation (TDEC) pursuant to TCA 67-4-409 is authorized, in cooperation with the Tennessee Department of Agriculture (TDOA) and the Tennessee Wildlife Resources Agency (TWRA), to establish the "Local Parks Land Acquisition Fund" - referred to as the **Local Parks and Recreation Fund (LPRF)**. The LPRF is to provide grants to all eligible local governmental entities for the purchase of lands for parks, natural areas, greenways, and for the purchase of land for recreation facilities. The funds may also be used for trail development and capital projects in parks, natural areas, and greenways. At least 60 percent of the funds allocated will go to municipal governments as authorized by the Act. TDEC's Recreation Educational Services Division (RES) will administer the LPRF grants.

Natural Resources Trust Fund (NRTF)

The State Treasurer, pursuant to TCA 11-14-304 is authorized to establish the **Natural Resources Trust Fund (NRTF)**. The NRTF was created by the General Assembly "to protect the endowment represented by the land and minerals owned by the State; and to ensure that development of state-owned non-renewable resources will proceed in a manner which is economically sound, and that revenues received from disposal of those resources will be used for the long term public interest." Grants from the NRTF may be awarded to all eligible local governmental entities and state agencies for outdoor recreation, historical or archaeological sites, the acquisition of lands, waters, or interests in lands and waters. TDEC's Recreation Educational Services Division (RES) will administer the NRTF grants.

GENERAL PROCEDURES

Distribution of Funds

LWCF/LPRF/NRTF grants are awarded by TDEC/RES on a project-by-project basis to those applicants earning the highest rating following a competitive evaluation of eligible program applications. Each project application is evaluated based upon the Open Project Selection Process (OPSP) priority rating mechanism. When all applications have been rated and evaluated, TDEC/RES will provide a list of recommended LPRF grant recipients to TDOA and TWRA for review and subsequent approval. Projects recommended for funding through the L&WCF will be reviewed and approved by the Commissioner of TDEC, for subsequent approval by the National Park Service (NPS). Projects recommended for funding through the NRTF will be reviewed and approved by the Commissioner of TDEC. RES will determine which grant fund the project is funded by.

Grant recipients will receive funds through a reimbursement process established by TDEC/RES. Detailed instructions on this process will be distributed to grant recipients following the award announcement.

Eligible Applicants

Each county government and each incorporated municipality of the State of Tennessee may submit one LWCF/LPRF/NRTF application per grant cycle. A city and/or county may apply jointly for a project in addition to their individual city or county project. If a government entity currently has an open project, they will not be eligible to reapply unless the open project is physically complete. The Project Completion Certification form must be submitted to RES no later than March 7, 2008. **Failure to pass your final inspection will result in the ineligibility of your application.** All other pertinent documentation, including final reimbursement forms and supporting documentation, must be submitted to RES no later than April 21, 2008. State Agency applicants applying for L&WCF must follow the same procedure.

The five project categories are as follows:

1. Development –

A development project encompasses the construction, expansion, or major renovation of the following:

- a. Primary Facilities - Funds may be awarded for one or a combination of sites and facilities - Example: fishing piers, boat ramps and docks, boardwalks and riverwalks, observation towers, athletic fields, play courts, playgrounds, picnic areas, historical or archaeological sites, trails, etc. [Recreation buildings and structures are eligible facilities for LPRF only.]

- b. Support Facilities and Improvements - Funds may be awarded for support facilities and improvements. Example: parking lots, restrooms, bathhouses, access roads, landscaping, lighting, fencing, signs, ramps, etc. that would have little or no recreational value without the primary recreation facilities.

2. Acquisition – Heritage Resources

- a. Primary significance of the acquisition is based on conserving; bio diversity, significant *geological features, archaeological sites, and historical sites eligible for listing on the National Register of Historic Places.*

3. Acquisition-Recreation Resources.

- a. *An acquisition project will acquire real property or interests and rights therein by various legal means (land is to be used for parks, natural areas, greenways, and/or for recreation facilities).*

- b. No funds deposited in the local park lands acquisition fund from the tax levied by subsection (a) of TCA 67-4-409 shall be obligated or expended **to acquire any interest in real property through condemnation or the power of eminent domain.**

4. Acquisition and Development -

The combination of the two above referenced project categories

5. Greenways and Trails Development and/or Natural Area Preservation

- a. If the applicant wants to be scored for these criteria, a minimum of 50% of the project cost must be a greenway or trail development, and/or natural area preservation.

<p>* All facilities developed or renovated must meet the most current Americans with Disabilities Act (ADA) of 1991 requirements and guidelines. Also see “ADA Compliance Section”:</p>
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Project Costs

Reimbursable expenses must be incurred during the project term as established in the grant contract. However, if an applicant submits an LPRF application for land acquisition or trail development, then acquires the land or constructs the trail while the application is being considered, that land acquisition or trail development may be reimbursed if the applicant is awarded an LPRF grant no later than twelve months after the application submittal.

The only costs eligible for reimbursement before grant award are: trail development and land acquisition/donation, (and the appraisals, surveys, boundary maps, topographical maps, and title searches which must constitute no more than fifteen percent of the total grant project). All other architectural and engineering costs, planning expenses and project signage will not be reimbursed if incurred prior to the beginning of the grant term.

Project planning expenses (i.e., architectural and engineering fees, permitting fees, project inspection, etc.) are eligible project costs provided such costs do not exceed 15 percent of the total project cost. If an awarded project has only been partially funded, the 15% for planning expenses will be reduced accordingly. *Note: In order for planning, administration, architectural and engineering fees, etc., to be eligible for reimbursement, there **MUST** be a line item designated as such in the contract.*

*A grant will not be awarded for the sole purpose of reimbursing, Planning, Administrative, Architectural & Engineering costs.

1. Accountability

The grant recipient will be responsible for the following:

- a. *Accounting System* - Each recipient is responsible for maintaining an accounting system which meets generally accepted accounting principles and for maintaining financial records to properly account for all grants and matching funds.
- b. *Grant and Contract Accountability Policy* - The local applicant will fulfill the conditions of the written contract. State agencies must complete an intergovernmental agreement.
- c. *Contracts* – Grantees who do not have a written local procurement procedure must follow State procurement policies.

Match Requirements

Match Assurance

A resolution or ordinance indicating the amount of funds requested, the source of said funds, and the applicant's commitment to match the requested amount must be included with the application. Additionally, a signed and dated statement from the chief elected or

appointed official (i.e., mayor, or agency director) indicating the applicant's desire for funding and commitment to completing the project must be included.

The match requirements for LWCF/LPRF/NRTF grants are as follows:

1. **Match Ratio** - The government entity must match the LWCF/LPRF/NRTF funds with an equal amount of funds. LWCF/LPRF/NRTF grant funds must be spent on actual project costs for land acquisition or development.
2. **Eligible Match Funds** - An applicant may utilize one or a combination of the following types of match sources for its share of project costs:

a. Development Project

- 1) Cash
- 2) In-kind services, materials, and equipment use costs
- 3) Other grants – Refer to the “Match List” in this manual to determine eligibility.
- 4) The appraised fair market value of property acquired by the government for the proposed project may be used as the match for development. The appraised value of real property *donated* for the proposed project may also be used as the local government's match. [For LPRF, the land must be donated by a third party to be eligible for match.]
- 5) City, county, or state owned property previously dedicated to recreation cannot be used as match.

b. Acquisition Project

- 1) Cash
- 2) Other grants – Refer to the “Match List” in this manual for eligibility determination.
- 3) The appraised fair market value of real property *donated* by a third party.

Program Funding Allocations

LOCAL PARKS AND RECREATION FUND

At least 60 percent of the LPRF annual appropriation will be allocated to municipal governments based upon the project's overall rating. The minimum grant award is \$10,000 and the maximum grant award is \$500,000. Projects are awarded based on an Open Project Selection Process (OPSP). The State reserves the right to fund a portion of a project based on the current revenue tax collection, pursuant to the TCA 67-4-409, and on the number of applications requesting funds. If the grant award is less than the amount requested, TDEC/RES will assist the applicant in preparing a revised project cost estimate prior to the full execution of the grant contract.

LAND & WATER CONSERVATION FUND

Allocation/distribution of the L&WCF apportionment is at the discretion of the TDEC Commissioner when funding becomes available. Projects are awarded based on an Open Project Selection Process (OPSP). The National Park Service (NPS) must approve projects before the grant can be awarded.

NATURAL RESOURCES TRUST FUND

Projects scored for funding under NRTF become a budget line item for TDEC. Awards will be made from this budget.

Site Control

The site of a LWCF/LPRF/NRTF development or acquisition must be permanently dedicated as a public recreation site and must be maintained as such according to the terms of the dedication. Documentation (i.e., the *Notice of Limitation of Use* (NLU) form found in this manual) must be on permanent file with the local Register of Deeds. A signed and/or stamped copy showing that it is on file with the local Register of Deeds must accompany the first reimbursement request. The NLU must be referenced on the deed.

Waiver of Retroactivity for L&WCF Projects

Retroactive costs for land acquisition will not be matched under ordinary circumstances. Exceptions will be made only when immediate action is necessary and the time necessary to process an application would result in a significant opportunity being lost. The State will notify the National Park Service in writing of the necessity for action prior to taking such action and will give justification for the proposed action.

ADA Compliance

Applicants, applicant sites and projects must comply with the Americans with Disability Act (ADA). For the current best practice or best information available refer to the website: www.access-board.gov. Additional ADA information may be found at: www.NCAonline.org

Public Accessibility

Project sites must be accessible and open to the public during reasonable hours of operation, on a non-exclusive basis without regard to age, sex, race, religion, or similar condition. All grant projects will be managed in a safe and attractive manner appropriate for public use and not subject to exclusive use by any one organization or group.

Fees and Charges

If admission, user, or other fees are charged for the use of the land, facilities, or buildings that were rehabilitated, developed, or acquired with funding from the LWCF/LPRF/NRTF Programs, the fee structure cannot be discriminatory to non-residents of the governmental entity. Higher fees may be charged to non-residents; however, they cannot exceed twice that charged to residents.

Unsettled Claims

TDEC/RES may deny or suspend program eligibility or withhold grant funds to any applicant against which the State has an unsettled financial claim.

Utility Lines

Overhead utility lines constitute major safety concerns and detract from the natural quality of many recreation areas and must be eliminated where possible. Governments will, therefore, be expected to:

1. *Take all reasonable steps* to insure the burial, screening, or relocation of existing overhead lines at development or acquisition projects where such lines visibly intrude upon the site's character.
2. *Insure that all new* electric wires under 15 KV and telephone wires be placed underground. In no case will high density recreation use areas (swimming, picnicking, etc.) be located under electric wires.

If the government thinks that existing overhead lines should not be removed, rerouted, or buried, a detailed explanation and justification of such (i.e., certified engineer's report) must be included in the Maintenance Narrative section within the application package.

APPLICATION REQUIREMENTS AND PROCESS

Application Submission Period

Grant applications shall be submitted **ONLY** during the announced application submission period. Applications must be **RECEIVED** by RES by the end of business (**4:00 P.M. CST**) on Friday, March 7, 2008. TDEC/RES has announced the application submission period to all City and County Mayors or agency officials through a mass mailing. Applications submitted after the deadline will be ineligible and will be returned to the applicant.

Review of Applications

TDEC/RES will review all applications and notify any applicants of their ineligibility **and** whose projects do not receive funding. Applicants with unfunded projects may request a summary of their rating and may request technical assistance to improve their current delivery system in order to prepare for future grant cycles. Ineligibility can be based on the following:

1. *Inadequate verification of equal match* - (TCA 67-4-409, 11-14-307, and Public Law 88-578, 78 Stat 897) for requested funds.
2. *Ineligible expense* - Example: Any item that is not of permanent use to the project (i.e., contingency line item, hand tools, maintenance equipment; portable toilets for permanent public use, un-mounted trash cans and sporting equipment).
3. *Deficient Documentation*
 - a. Required documents - All required documents (i.e., proof of site control; resolution/ordinance supporting application; statement of commitment from elected official; evaluation criteria; cost estimate; site development plan; boundary maps; topographical quadrangle maps; location maps; lease; deed; title; etc.) must be included in the application.
 - b. Prescribed time period - The application must be in RES's possession by the close of business on the closing date of the application submission period.
 - c. Failure to follow format instructions - Failure to adhere to specified formatting instructions (i.e., incorrect binding, information out of order, illegible maps, etc.) will result in point deductions.
4. *Acquisition Documentation* - The applicant must have or will have clear title to the land in question, or possess a long-term lease (the lease must be for no less than 25 years, and must be entered into with a state, federal, or local government agency such as TVA, the Corps of Engineers, local school board of education, etc. for public recreation use). An acquisition that is not permanently dedicated to recreation use will be ineligible.

Application Evaluation

Each application will be evaluated based upon the information provided in the application, as well as on information and observances compiled during the actual physical inspection of each project site. Projects will be rated in accordance with the

OPSP rating criteria. Final recommendations are based upon the applicants' total ratings and will be submitted to the Commissioner of TDEC, the Commissioner of TDOA, and the Executive Director of TWRA for final approval.

Special Requirements

ACQUISITION PROJECTS

1. ***Grant Period*** - The grant recipient has one year from the beginning date of the project contract to complete the acquisition. TDEC/RES will consider extending this period **ONLY** for good cause (i.e., financial hardship, public controversy, factors beyond applicant's control, etc.) at the written request of the applicant.
2. ***Ownership*** - An applicant receiving assistance from the State for acquisition must have a clear title to the acquired land and must permanently commit the land to public recreation and/or public recreational use. The use of grant funds to acquire publicly owned permanent easements is eligible as part of the project cost. Private easements, such as Conservation Easements, do not qualify under the term of ownership and therefore are not eligible for project funding.
3. ***Application Documentation*** - The applicant will submit for TDEC/RES's approval the documentation described in the *Application Requirements Checklist*.
 - a. **Opinion of Value** - The applicant will submit to TDEC/RES at a minimum an Opinion of Value, prepared by the tax assessor or a licensed/certified real estate appraiser, which establishes the estimated fair market value of the project site. If a grant is awarded, the applicant will be required to submit an appraisal prepared by a licensed/certified real estate appraiser in order to use the property as all or part of the match. The appraisal must be dated no earlier than twelve (12) months prior to the grant award date. The appraisal will be reviewed/approved by the TDEC/RES appraisal reviewer prior to the release of the LWCF/LPRF/NRTF money to the applicant.
 - b. **Survey** - For all acquisition projects, the applicant will submit to TDEC/RES a survey of the project site. The survey must have been performed by a registered land surveyor, and must be dated within one year of the closing date of the application submission period. The survey must possess a North arrow and the date of the survey. A legal description of the property must be included, along with the results of a title search for the property. The title search should cover a five-year period prior to the approval of the grant project.
 - c. **Boundary Maps** The applicant will submit to TDEC/RES boundary map(s) of the site. This map must indicate the legal boundaries of the site, display known easements, and be legally sufficient to identify the area for protection as a permanent public recreation site. The boundary map should include the GIS/GPS coordinates for the site. For more detailed instructions, see *Exhibit 1 - Project Boundary Map*
 - d. **Topographical Quadrangle Maps** The applicant will submit a project location map topographical quadrangle map displaying the exact location of the project site with written directions from the main part of town as well as indicating the nearest State highway. If the site is not currently a park or difficult to find, provide directions with landmarks. This map must be current, accurate, and legible (see *Exhibit 2 - Topographical Quadrangle Map*).

4. ***Environmental Review*** - An environmental review will begin during the application period for each project. The original topographical quadrangle map submitted by the applicant must have the exact project site and boundaries clearly indicated. ***The applicant is responsible for and must obtain all necessary local, state, and federal environmental permits and environmental clearance approvals no later than March 7, 2008. However, if additional surveys or studies are necessary the applicant must document in the application that services for the surveys or studies are under contract. This includes any archaeological studies or other environmental reports.*** Copies of said permits and approvals must be included with the Environmental Considerations section of the application. TDEC's permit website address is: <http://www.state.tn.us/environment/permits> ***Note: If the project receives a grant award, no construction or development may begin until the results of TDEC'S environmental review have been obtained and the applicant has received written verification from RES to proceed with the project.***

DEVELOPMENT PROJECTS

1. ***Grant Period*** - The applicant will have no more than three years from the effective date of the project contract to complete the project.
2. ***Application Documentation*** - The applicant will submit for TDEC/RES's approval the documentation described in the *Application Requirements Checklist*, in this manual.
3. ***Land Value as Match*** - The applicant will submit to TDEC/RES a current *opinion of value* prepared by a tax assessor or a licensed/certified real estate appraiser. This opinion of value will establish the approximate land value of the project site. The opinion of value must be dated no earlier than one year prior to the closing date of the application submission period. If the grant is awarded, the applicant will be required to submit an appraisal prepared by a licensed, certified real estate appraiser to establish the official land value.
4. ***Environmental Review*** - An environmental review will be conducted during the application period for each project. The original topographical quadrangle map that is submitted by the applicant must have the exact project site and boundaries clearly indicated. ***The applicant is responsible for and must obtain all necessary local, state, and federal environmental permits and approvals prior to grant application deadline. However, if additional surveys or studies are necessary the applicant must document in the application that services for the surveys or studies are under contract.*** Copies of said permits and approvals must be included with the Environmental Considerations section of the application. **Failure to include said documentation will result in application ineligibility.** ***Note: If the project receives a grant award, no construction or development may begin until the results of TDEC'S environmental review have been obtained and the applicant has received written verification from RES to proceed with the project.***
5. ***Boundary Map*** - For all projects, the applicant will submit to TDEC/RES a boundary map of the site. This map must indicate the boundaries of the site, display known

easements, and be sufficient to identify the area for protection as a permanent recreation site and include GIS/GPS coordinates for the project site. For more detailed instructions, see *Exhibit 1 – Project Boundary map*

6. *Location and Topographical Quadrangle Map* - The applicant will submit a project location map and a topographical quadrangle map displaying the exact location of the project site with written directions from the main part of town as well as indicating the nearest State highway. If the site is not currently a park or is difficult to find, provide directions with landmarks. This map must be current, accurate, and legible (see *Exhibit 2 – Topographical Quadrangle Map*, *Exhibit 3 - Location Map*).
7. *Project Development* - The applicant will submit all pertinent preliminary site, floor, and elevation plans with the application. All indoor facilities **MUST** clearly indicate ADA compliance throughout the building. Ball fields, concession buildings, restrooms, swimming pools, playgrounds, pavilions, parking lots and other outdoor open space areas should provide as specific as possible plans/drawings indicating ADA accessibility. For details regarding these plans, see *Exhibit 4 - Preliminary Site Plan* and *Exhibit 5 - Preliminary Floor and Elevation Plan*.

Site Dedication

Land acquired or developed by the applicant with LWCF/LPRF/NRTF grant funds must be permanently dedicated as a public recreation site according to the terms of the original grant contract. Documentation (i.e., *Notice of Limitation of Use*) is to be filed with the local Register of Deeds. The *Notice of Limitation of Use* must be referenced on the deed. Applicants with leases or easements must have a minimum 25-year lease/easement with a local, state, or federal agency.

Conversion

In the future, should an applicant convert all or part of the project site to other than approved recreation use or lose the use of the property for recreation purposes, the applicant must notify TDEC-RES at the earliest possible time, and plan to replace the site/facilities, at its own expense, with an acceptable project of comparable scope and quality. (Conversions must have TDEC/RES, TDOA, and TWRA or NPS approval.)

Non-Compliance

TDEC/RES will have the right to terminate a project contract and demand return of the grant funds for non-compliance by an applicant. Failure by an applicant to comply with the provisions of the project contract will result in TDEC/RES declaring the applicant ineligible for further participation in LWCF/LPRF/NRTF until such time as compliance has been obtained to the satisfaction of the State or NPS.

Inspections

The TDEC/RES staff will perform grant progress inspections as necessary and a final inspection upon project completion. Grantee is responsible for the upkeep, maintenance and operation of the land and/or facilities developed by the grant. Five year post completion inspections will be made to insure the facilities are still operating properly and are well maintained.